REMARKS

In view of the following remarks, Applicant respectfully requests reconsideration of the present application.

Objections and Rejections

The Office Action dated July 20, 2007:

1. objects to the informal drawings included in the patent application as originally filed;
2. rejects claims 1-3, 5, 9-11 and 13 under 35 U.S.C. § 102(b) as being anticipated by United States Patent no. 5,699,637 entitled "Arch Frame" that issued December 23, 1997, on a patent application filed by Norbert Marocco ("the Marocco patent");
3. rejects claims 6, 7, 17 and 18 under 35 U.S.C. § 102(b) as being anticipated by United States Patent no. 5,987,845 entitled "Post Cover with Tongue and Groove Joint" that issued November 23, 1999, on a patent application filed by Mark J. Laronde ("the Laronde patent"); and
4. rejects claims 4, 12 and 14-16 under 35 U.S.C. § 103(a) as being obvious based upon:
   a. the Marocco patent; in view of
   b. the Laronde patent.

Submission of Formal Drawings

Regarding the objection to the drawings that appears on page 2 of the July 20th Office Action, Applicant submits with this Response a complete set of replacement formal drawings for the objectionable, informal drawings included in the patent application when originally filed.

The Claimed Invention

The pending claims respectively encompass two (2) different aspects of the disclosure.

- Construed broadly, independent claims 1 and 9, together with claims depending therefrom, encompass an arcuate architectural component that includes:
  - o flexible outer and inner boards; and
  - o first and second pluralities of arcuate tiles that are adapted for:
    - spanning between longitudinal edges of the outer and inner boards; and
    - mating and locking with the longitudinal edges of the outer and inner boards.
- Independent claims 6 and 17, together with claims depending therefrom, encompass a columnar arcuate architectural component assembled from a plurality of flexible boards

each of which includes tongue-and-groove tracks formed along opposite longitudinal edges thereof. Immediately adjacent pairs of longitudinal tongue-and-groove tracks of juxtaposed flexible boards mate and lock with each other.

The Cited References

The Marocco Patent

The Marocco patent discloses an arch frame 10 formed by laminating together an extruded, rectangularly-shaped, thermoplastic outer or finish bar 12 with one or more extruded, rectangularly-shaped, thermoplastic intermediate bars 14. The outer or finish bar 12 juxtaposes and interlocks along its length with the immediately adjacent intermediate bar 14. Correspondingly, immediately adjacent pairs of intermediate bars 14 interlock along their respective lengths with each other. The interlocking between immediately adjacent pairs of bars 12-14 and 14-14 permits them to:

> **slide longitudinally relative to one another**.
> In order to form an arch of a predetermined arc, the straight bars indicated as 12 and 14 in FIG. 4, will be flexed and bent as shown in phantom in FIG. 4, to form an arch 10. **As the bars flex, the ends of the bars will move relative to one another as shown in FIG. 4**.
> In order to hold the arch in the predetermined bent arc position, **a plurality of fastening screws 52--52 FIG. 5, are then screwed through from the exterior of the outer bar 12, through all of the intermediate bars 14**,

> the screws being intended to pass between pairs of inner partition walls 42--42, in each of the intermediate bars.[1] (Emphasis supplied.)

The Laronde Patent

The Laronde patent discloses a hollow, **polygonal-shaped cover assembly** adapted for surrounding exposed posts. The assembly includes a number of necessarily substantially planar sections[2] each with an inner surface, outer surface and two side edges. The side edges of each section are angled relative to the inner and outer surfaces. Each section has one side edge with a tongue projecting from it and extending the length thereof, and one side edge having a groove extending the length thereof configured to receive the tongue of an abutting section. Preferably the cover assembly is preassembled into two section assemblies each consisting of a number of sections previously bonded to each other.[3]

> Each section assembly is preassembled as follows: adhesive 15 is placed in each groove 5 of each section in the section assembly. Abutting sections are aligned so that the tongue of one section is inserted into the

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[1] See the Marocco patent in col. 3, lines 33-45.

[2] The American Heritage Dictionary defines the word "polygon" as follows.

> A closed plane figure bounded by three or more line segments.

[3] See the Laronde patent's abstract.

> groove of the abutting section. Once the sections 2 of each section assembly 14 are abutted and constant pressure is applied, abutting sections become fixed to each other.
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> * * *
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> For final assembly around a post, the end user then inserts adhesive into the grooves of the exposed side edges of each section assembly. The end user then places the two section assemblies around the post and presses the exposed side edges of the section assemblies together such that the tongue of one exposed side edge is received by the groove of the exposed side edge of the other section assembly. Constant pressure is then applied to the tongue and groove joint 16 so as to create a bond.[4]

Legal Principles Applicable to Rejections Under 35 U.S.C. 102(b)

Certain well established principles are to be applied in assessing whether or not an invention is patentable under 35 U.S.C. 102(b).

> [F]or anticipation under 35 U.S.C. § 102, the reference must teach **every aspect** of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present. Manual of Patent Examining Procedure ("MPEP") Eighth Edition, Rev 2, Aug 2006, § 706.02 IV., p. 700-23 (Emphasis supplied)

"Anticipation under 35 U.S.C. § 102 requires the disclosure in a single piece of prior art of each and every limitation of a claimed invention." Rockwell International Corporation v. The United States, 147 F.3d 1358, 1363, 47 USPQ2d 1027, 1031 (Fed. Cir.

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[4] See the Laronde patent in col. 3, lines 6-26.

1998) citing National Presto Indus. v. West Bend Co., 76 F.3d 1184, 1189, 37 USPQ2d 1685, 1687 (Fed. Cir. 1966).

"The claimed invention [includes] present structural limitations on each part, which structural limitations are defined by how the parts are to be interconnected in the final assembly, if assembled.

* * *

We see nothing wrong in defining the structures of the components of the completed connector assembly in terms of the interrelationship of the components, or the attributes they must possess, in the completed assembly." In re Venezia, 530 F.2d 956, ____, 189 USPQ 149, 151-52 (CCPA 1976).

The prior art **as a whole must be considered**, and those portions of the **prior art arguing against or teaching away from the claimed invention must be considered**. Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc., 796 F.2d 443, 448, 230 USPQ 416, 420 (Fed. Cir. 1986), In re Hedges, et al., 783 F.2d 1038, 1041, 228 USPQ 685, 687 (Fed. Cir. 1986). (Emphasis supplied.)

Argument

Arcuate Architectural Component Claims 1-5 And 9-16

In rejecting independent claims 1 and 9 under 35 U.S.C. § 102(b) as being anticipated by the Marocco patent, the July 20, 2007, Office Action on page 3 alleges as follows.

> Regarding claims 1 and 9, Marocco illustrates in Figures 3-5 an arcuate architectural structure and component adapted to be in the structure comprising:
> - A flexible outer board (Figure 5, item 14) forming a curved first outer surface including tongue and groove tracks (see Figure 3) formed along opposite ends;
> - A flexible inner board (Figure 5, item 14) forming a curved second outer surface including tongue and groove tracks (see Figure 3) formed along opposite ends;
> - A first and second plurality of arcuate tiles (see modified Figure 3 below) adapted to be arranged to form a third outer surface spanning the distance of the outer and inner boards (14);
> - The plurality of tiles having a tongue and groove (see Figure 3) adapted to mate and lock with the outer and inner boards (14);

Assuming strictly for the sake of argument that the preceding application of the Marocco patent's disclosure to pending independent claims 1 and 9 correctly characterizes that reference, Applicant respectfully submits that at least for the following reasons those claims as originally filed traverse rejection under 35 U.S.C. § 102(b) based upon the Marocco patent. Applicant respectfully submits that independent claims 1 and 9 traverse

rejection under 35 U.S.C. § 102(b) because the Marocco patent fails to disclose each and every limitation of the claimed invention.

Independent claims 1 and 9 expressly require that:

1. the arcuate tiles have an **arcuate tongue-and-grove** formed along peripheral edges of the arcuate tile; and
2. each arcuate tile's tongue-and-grove "mate and **lock** with a **portion** of the tongue-and-groove track" of the flexible outer or inner board.

As clearly depicted by the illustration on page 4 of the July 20th Office Action, that which text in the Office Action's page 4 illustration identifies as being "arcuate tiles" lack any "arcuate tongue-and-groove" as expressly required by the text of independent claims 1 and 9, but are instead straight.

Furthermore, that which text in the Office Action's page 4 illustration identifies as being "arcuate tiles" do not "mate . . . with a **portion** of the tongue-and-groove track" of the flexible outer or inner board. Rather, that which text in the Office Action's page 4 illustration identifies as being "arcuate tiles" mate with that which the text in the Office Action's page 4 illustration identifies as being flexible outer and inner boards along the boards' entire length.[5]

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[5] See the Marocco patent's FIG. 4.

Lastly, that which text in the Office Action's page 4 illustration identifies as being "arcuate tiles" do not "lock with a **portion** of the tongue-and-groove track" of the flexible outer or inner board. The preceding excerpt from the Marocco patent's text expressly discloses that interlocking between immediately adjacent pairs of bars 12-14 and 14-14 permits them to "slide longitudinally relative to one another." Because boards disclosed in the Marocco patent "slide longitudinally relative to one another:"

> [i]n order to hold the arch in the predetermined bent arc position, a plurality of fastening screws 52--52 FIG. 5, are then screwed through from the exterior of the outer bar 12, through all of the intermediate bars 14, ...

The arcuate tiles disclosed in the present application and encompassed by independent claims 1 and 9, because they include "arcuate tongue-and-grooves" and they both mate and **lock** with the inner and outer boards, do not require any fasteners "to hold the arch in the predetermined bent arc position" as expressly required for the alleged flexible outer and inner boards and alleged tiles identified in the July 20th Office Action's page 4 illustration.

Because for at least the three (3) reasons identified above the Marocco patent fails to disclose each and every limitation of independent claims 1 and 9, Applicant respectfully submits that those claims, together with claims 2-5 and 10-16 respectively depending therefrom, traverse all rejections appearing in the July

20th Office Action. Because for at least the three (3) reasons identified above controlling legal precedent cited above prohibits rejecting claims 1 and 9 under 35 U.S.C. § 102(b) based upon the disclosure of the Marocco patent, Applicant respectfully requests that:

1. all rejections of claims 1-5 and 9-16 appearing in the July 20th Office Action be withdrawn; and
2. claims 1-5 and 9-16 pass promptly to issue.

Arcuate Architectural Component Claims 6-8 And 17-19

In rejecting independent claims 6 and 17 under 35 U.S.C. § 102(b) as being anticipated by the Laronde patent, the July 20, 2007, Office Action on page 5 alleges as follows.

> Regarding claims 6 and 17, Laronde illustrates in Figures 1-4 an arcuate architectural structure and component adapted to be in the structure comprising:
> - A plurality of flexible boards each including tongue and groove (3 and 6) tracks formed along opposite longitudinal edges adapted to mate with do adjacent member;
> - Tongue and groove tracks (3 and 6) of all flexible boards mated and locked to form a column (8).

Applicant respectfully submits that the preceding allegations supporting the rejection of claims 6 and 17 based upon the Laronde patent are a total canard. Applicant further respectfully submits that at least for the following reasons claims 6 and 17 as original-

ly filed traverse rejection under 35 U.S.C. § 102(b) based upon the Laronde patent. Applicant respectfully submits that independent claims 1 and 9 traverse rejection under 35 U.S.C. § 102(b) because the Laronde patent fails to disclose each and every limitation of the claimed invention.

First, contrary to the July 20th Office Action's allegations excerpted above, **the abstract of the Laronde patent expressly states that the disclosed structure is a polygon, i.e. not arcuate**. Thus, the preceding allegation excerpted from the July 20th Office Action by alleging that the Laronde discloses an **arcuate** architectural component displays either:

1. a total disregard for the truth;
2. ignorance of the meaning of the word "arcuate;"[6] or
3. a failure to even read the abstract of the Laronde patent or to look at the reference's drawings.

Second, nowhere does the Laronde patent disclose or even suggest that its boards, i.e. "sections," are flexible. Because the Laronde patent expressly declares that the disclosed architec-

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[6] The American Heritage Dictionary defines the word "arcuate" as follows.

> Having the form of a bow; curved. [Latin *arcuātus*, past participle of *arcuāre*, to bend like a bow, from *arcus*, bow.]

tural component is a polygon, Applicant respectfully observes that the boards must necessarily be rigid rather than flexible.

Lastly, as excerpted above the Laronde patent expressly discloses that adhesive holds the architectural component's boards, i.e. the Laronde patent's "sections," together.

> Each section assembly is preassembled as follows: **adhesive 15 is placed in each groove 5** of each section in the section assembly.
>
> * * *
>
> For final assembly around a post, the end user then inserts **adhesive into the grooves of the exposed side edges of each section assembly**. The end user then places the two section assemblies around the post and presses the exposed side edges of the section assemblies together such that the tongue of one exposed side edge is received by the groove of the exposed side edge of the other section assembly. **Constant pressure is then applied to the tongue and groove joint 16 so as to create a bond.**[7] (Emphasis supplied)

Thus, the Laronde patent expressly teaches away from the mating and locking expressly disclosed in the present application, and expressly encompassed by the respective texts of independent claims 6 and 17.

Because for at least the three (3) reasons identified above the Laronde patent fails to disclose each and every limitation of independent claims 6 and 17, Applicant respectfully submits that those claims, together with claims 7-8 and 18-19 respectively depending therefrom, traverse all rejections appearing in the July

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[7] See the Laronde patent in col. 3, lines 6-26.

20th Office Action. Because for at least the three (3) reasons identified above controlling legal precedent cited above prohibits rejecting claims 6 and 17 under 35 U.S.C. § 102(b) based upon the disclosure of the Laronde patent, Applicant respectfully requests that:

1. all rejections of claims 6-8 and 17-19 appearing in the July 20th Office Action be withdrawn; and
2. claims 6-8 and 17-19 pass promptly to issue.

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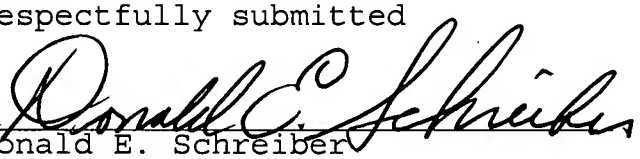
Conclusion

By submitting the accompanying formal drawings, the patent application now traverses the objection to the drawings appearing in the July 20th Office Action.

Because, for the reasons set forth above, the references which the July 20th Office Action applies in rejecting independent claims 1, 6, 9 and 17 under 35 U.S.C. § 102(b) fail to teach **every aspect** of the claimed inventions, Applicant respectfully submits that independent claims 1, 6, 9 and 17, together with all claims depending therefrom, traverse the rejections appearing in the Office Action. Accordingly, Applicant respectfully requests that all rejections of claims 1-19 appearing in the July 20th Office Action be withdrawn, and that this patent application pass promptly to issue.

Respectfully submitted



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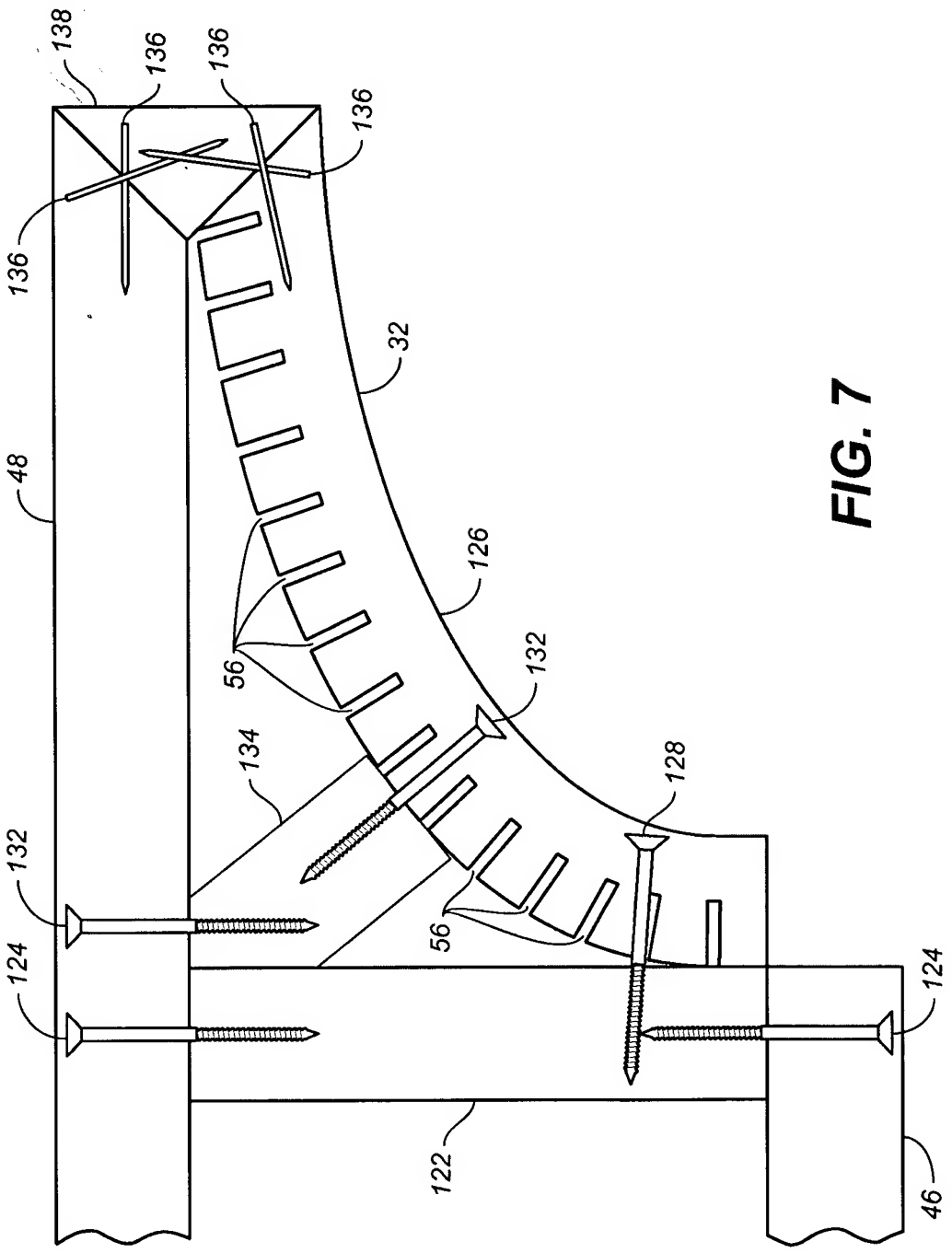

FIG. 7